

FINAL BILL REPORT

SSB 5715

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Synopsis as Enacted

Brief Description: Concerning persons selling, soliciting, or negotiating insurance.

Sponsors: Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Benton, Berkey, Hobbs, Prentice, Hatfield, Franklin and Shin; by request of Insurance Commissioner).

Senate Committee on Financial Institutions & Insurance
House Committee on Insurance, Financial Services & Consumer Protection

Background: An insurance agent is appointed and paid by an insurance company to place the insured's insurance with that company. The insurance agent is under a contract of agency with the insurance company. An insurance broker is paid a fee by the insured to place that person's insurance with insurance companies.

Both agents and brokers must be licensed and are regulated by the Office of Insurance Commissioner (OIC). A licensee may be both an agent and a broker. An agent licensed as a broker for property and casualty insurance may receive a commission payment from the insurer or a fee payment from the insured, or both. If both are received, the full amount of compensation must be disclosed in writing to the insured by the agent-broker.

Both agents and brokers must submit fingerprints during the licensing process.

Laws applying to insurance agents and to insurance brokers are different in some respects. The differences include the requirement for agents to be appointed by insurance companies. The agent's license is valid until suspended or revoked or until the appointment ceases.

Brokers differ from agents in that brokers must have at least two years of experience as an agent, or other position in the insurance industry. A broker's scope of licensing is either all lines, casualty-property, or life and disability. A broker must maintain a bond in favor of the people of the state of Washington in the amount of \$20,000. The broker's license is valid until suspended or revoked or until a period of time elapses, as determined by the OIC.

The OIC may issue a temporary license to surviving next of kin of a deceased licensee, if the survivor is otherwise qualified except for experience or the taking of the examination.

Reciprocity between licensees of Washington and those of other states applies subject to the same obligations, limitations and supervision as though the foreign licensee were a resident of this state.

The license application fee and the fee required every two years to renew a license is \$50.

The National Association of Insurance Commissioners (NAIC) has developed a model called producer licensing. This model has been adopted by 38 states. The model replaces the name

of licensees as agents and brokers with the term, producers, and has other provisions that vary from Washington law.

Summary: The terms agent and broker are replaced by the term producer. The term producer does not include title insurance agents. Applications for licenses must be on the uniform application forms. Nonresident title insurance agents who are licensed in their home states, but not in Washington, may participate in closing real estate transactions on Washington property.

A producer may not act as an agent of an insurance company unless the producer is appointed as an agent of that insurance company. If this relationship is terminated for reasons that would be grounds for the OIC to revoke, or otherwise limit, the producer's license, a formal procedure is instituted.

The formal procedure requires that the OIC keep a file on the terminated producer. This file must include the producer's comments on the termination. The file is confidential and cannot be made subject to disclosure by a public records request. The OIC may share the file with the NAIC and other regulatory and law enforcement jurisdictions, subject to confidentiality protections.

The producer also has a duty to report to the OIC any administrative or criminal actions against him or her.

Probation of a producer is introduced as a choice the OIC may make as an alternative to revocation, suspension, or refusal to renew the license.

A producer may be licensed in one or more of eight lines of authority. These lines of authority are life; disability; property; casualty; variable life and variable annuity products; personal lines; limited lines; and specialty lines. Limited lines consist of surety; limited line of credit insurance; and travel. Specialty lines consist of communications equipment or services; rental car; or any other line permitted under state law.

Provisions for the temporary license are altered by providing a 180-day term for the license. The OIC may require a suitable sponsor to assume responsibility for the temporary licensee. A temporary licence may be given to the designee of a producer who enters active service in the armed forces.

The bonding requirements are altered. Producers who are not appointed as agents of an insurance company are required to have a bond in the amount of \$2,500 or 5 percent of the brokered premiums in the last calendar year, whichever is greater, up to \$100,000. The bonding requirement can be met with bonding in the name of an association.

Producers must disclose their receipt of both fees and commissions when selling all types of insurance.

Reciprocity must be granted to the licensees of other states in the form of a nonresident producer license, so long as the other states' nonresident licensing provisions operate on the same basis for residents of our state. The requirement to furnish information about the identity of the nonresident includes the requirement to furnish fingerprints. However, the OIC must waive the fingerprinting requirement if the home state also requires fingerprinting.

The license application fee and the fee required every two years to renew a license are raised \$5. The new fee is \$55.

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: July 1, 2009